

Application number: 09/396005

Art Unit: 3621

Applicant: Khai Hee Kwan

Examiner: Le, David Q.

Title: Method, apparatus and program to make payment in any currencies through a communication network system using prepaid cards



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 22 2003

TO: Commissioner for Patents
Washington DC 20231

GROUP 3600

Sir:

In reply to Final Office Action mailed on March 25, 2003 please enter the following amendments.

IN THE CLAIMS

Please refer to our Appendix 1

REMARKS

1. Administrative Matters

The examiner introduced a patent application publication US 2002/0073046 A1 by David Sanchos Enrique which is a continue in part of application 09/500,601 filed Feb 8, 2000 and claimed priority from provisional application 60/167,253 filed 24 Nov 1999 and 60/146,628 filed Jul 30, 1999. It is submitted that only the subject matter in 60/146,628 filed Jul 30, 1999 will be considered pertinent given our filed application is dated Sept 13, 1999. We will be sending our belated certified foreign application claiming priority based on an earlier filing date 11 Aug 1999 in Australia (a WTO member country) in response to examiner's request, as soon as we received it. An official but uncertified copy can be viewed online at <http://pericles.ipaustralia.gov.au/aub/pdf/2001/0215/199943506A1/199943506.pdf>

At the time of introducing this new prior art, the examiner is silent on the matter of demonstrating that actual common subject matter exist between the Jul 30, 1999 provisional application and the one presented here as publication US 2002/0073046 A1. Procedurally, demonstration of such commonality contains Sections 120/112 support is required under case law re Wertheim, 646 F.2d 527,537,209 USPQ 554, 564 (CCPA 1981) where the examiner introduced a CIP as prior art, else there is no support evidence of prior art as a matter of fact for applicant to rebut prima facie. We take this silent here to indicate that the examiner is confident that subject matter exists without the need for any demonstration.